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Economic and political solution to social problems: the case of secondhand smoke in enclosed 'public' places

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Abstract: This article utilises a case study of the problem of secondhand smoke in enclosed public places to examine economic and political solutions to social problems. The responses of economic actors to this problem are examined via analysis of a number of pre-existing case studies of private arrangements in bars and restaurants prior to the introduction of smoking bans. The responses of political actors are examined via a study of the legislative process that led to the ban on smoking in enclosed public places introduced in England in 2007. This empirical evidence supports the view that economic decision-making leads to a plurality of different accommodations of different preferences suggestive of inter-subjective learning, whereas political decision-making leads to exclusive, all-or-nothing solutions indicative of an adversarial approach to decision-making and the imposition of one group's preferences on the whole population.

1. Introduction

People encounter social problems as both economic and political actors: as producers and consumers in private markets they may entrepreneurially establish business enterprises, make purchasing decisions that allocate resources to such enterprises and/or voluntarily agree to codes of self-regulation in order to solve social problems; as citizens in democratic states they may vote for regulatory or legislative interventions and/or hold political or bureaucratic office that involves the administration of government enterprises that similarly aim to ameliorate social problems.

This article is concerned with how the responses to social problems that emerge from economic and political processes differ. There is an established view in political science that political institutions are more likely to produce effective solutions to social problems because they encourage reflective deliberation on the values and preferences of others, whereas economic processes are said to encourage more self-regarding, self-interested and hedonistic behaviour. The former is thought more likely to lead to the discovery of effective solutions to social problems than the latter. This view has been challenged by political economists working within (what might be termed) subjectivist political economy who argue that it is in fact economic processes that encourage inter-subjective learning and political processes that engender an unreflective and more adversarial approach to decision-making.

The article will examine these issues via a case study of economic and political solutions to the problem of secondhand smoke in enclosed public places, a problem that offers the opportunity to investigate both political and economic responses to the same phenomenon. The response of economic actors to the problem of secondhand will be examined via a number of published case studies of the arrangements for smokers and non-smokers in bars and restaurants prior to the introduction of smoking bans (Boyes and Marlow, 1996; Dunham and Marlow, 2000a, 2000b, 2004). To understand the response of political actors to the problem of secondhand smoke two key stages in the legislative process that led to the smoking ban introduced in England on 1 July 2007 will be examined: the inquiry into smoking in enclosed public places undertaken by the House of Commons Health Select

Committee in 2005 and the debate on the legislation in the House of Commons on 14 February 2006. It will be argued that this empirical evidence has far greater congruence with the arguments of subjectivist political economists than scholars whose work emphasises the deliberative potential of democratic decision-making.

After this introduction, Part 2 will present the two alternative theoretical accounts of the capacity of politics and markets to facilitate inter-subjective learning to solve social problems. Part 3 will present an economic analysis of the problem of secondhand smoke and set out the empirical evidence from existing studies of the response of economic actors to this problem. Part 4 will examine the response of political actors to this problem via analysis of the legislative process that led to the English smoking ban. Part 5 will draw out the policy implications of this evidence. Part 6 will conclude.

2. The claims of politics and the challenge of subjectivist political economy

A fundamental claim of politics is that political processes enable reflection and deliberation on one's own 'deep' values and on the values and preferences of others that is not possible in the economic realm. Politics is therefore said to facilitate inter-subjective learning – when one person learns about the subjective values and preferences of others. This deliberative dimension of politics is said to be a principal reason why political processes can produce qualitatively different outcomes, and it would be said superior outcomes, than economic processes.

The notion that politics has a powerful deliberative potential is central to much scholarship in political philosophy and political science. At the heart of John Rawls' contributions to political philosophy, for example, was the notion that within a political process people may reach an agreement about the terms of social cooperation that would not be possible in other institutional contexts. Rawls was concerned with the meta-framework within which more prosaic political and economic processes would operate, and in the case of the Original Position he offered a highly stylised and improbable account of political deliberation, but his work nevertheless exemplifies a widely-held assumption about the

outcomes that can emerge from self-reflection and inter-subjective learning in the political realm (Rawls, 1996, 1999a, 1999b).

Beyond the collective agreement of an institutional meta-framework, it has been argued that reflective deliberation should be seen as the essence of all democratic decision-making. According to Dryzek (2000, p. 1): 'The essence of democracy itself is now widely taken to be deliberation, as opposed to voting, interest aggregation, constitutional rights, or even self-government'. The key characteristic of political deliberation, Dryzek (ibid) has argued, is that 'deliberators are amenable to changing their judgements, preferences and views during the course of their interactions, which involve persuasion, rather than coercion, manipulation, or deception'.

Similarly, Gutmann and Thompson (1996, p. 2) have argued that the resolution of moral disagreements requires democratic deliberation in which citizens reason 'beyond their narrow self-interest' and reflect on the positions of those 'people who reasonably disagree with them'. For Gutmann and Thompson, only democratic processes offer the opportunity for the kind of reflective learning necessary to overcome the value-conflicts and moral disagreements likely to be part of any advanced, pluralist society.

Democratic politics, then, is believed to offer the potential (though it is recognised that this potential is not always realised) for people to come together to set out their preferred solutions to social problems and to reflect on proposals put forward by others with different values and preferences. From this process it is believed that solutions to social problems that command widespread agreement can emerge and that such solutions are likely to be effective because they reflect what Rawls (1996, pp. 131-172) termed an 'overlapping consensus' – the agreement of a broad set of principles by a diverse population.

It is claimed, then, that democracy has a transformative potential because it is only in a political context that people come together as citizens to discover common solutions to common problems. In the words of Barber (1984, p. 224), 'it is as a citizen that the individual confronts the Other and adjusts his own life plans to the dictates of a shared world', so that, 'The citizen does not define civic wants and needs; he develops common measures by which

private wants and needs can be transformed into public goods and ends' (See also: Gutmann and Thompson, 1996; Warren, 1992).

The belief in the deliberative power of politics set out above involves an implicit and often explicit criticism of decision-making in the economic realm. Economic processes are seen to respond to individual purchasing decisions that are driven by hedonistic self-interest and reflect only those values and preferences that can be translated into monetary units. It is argued that other-regarding and non-pecuniary values and preferences will not be recognised in an economic context. According to Dryzek (2000, p. 155), markets may be considered 'autistic' because 'they respond only to *human, consumer* preferences that can be couched in *monetary* terms'. Although it may be accepted that private markets are an efficient means of providing certain goods and services, it is nevertheless believed that such an 'autistic' mechanism is unlikely to be adept at fostering the inter-subjective learning necessary to the discovery of common solutions to social problems.

This view of the deliberative potential of politics and the 'autistic' nature of markets has been challenged by political economists working within what I term here (following Evans (2009)) subjectivist political economy. Subjectivist political economy draws principally upon the traditions of Austrian economics and Virginian public choice theory. It utilises a broadly rational choice account of human action, but also emphasises the importance of expressive motives and ideas in influencing human behaviour. While there are undoubted tensions between Austrian and public choice approaches (Ikeda, 2003), there are also sufficient similarities to facilitate the broadly unified approach pursued in this and other work (Boettke and Lopez, 2002; Boettke, Coyne and Leeson, 2007; Buchanan and Vanberg, 2002; Evans, 2009).

Subjectivist political economy places rivalrous competition at the centre of its account of the operation of a market economy: in the marketplace, different firms compete for custom and different individuals compete for positions within business enterprises. Two manufacturers may simultaneously launch competing models of MP3 player, for example, each hoping to win the custom of the finite number of potential customers. If one player sells in large numbers and the other does not, that outcome provides feedback about the preferences of

consumers and the success of each firm in meeting those preferences. It is via this process of rivalrous competition and feedback that information about people's preferences, and the value of the resources that might be used to meet those preferences, is revealed. A firm or individual that does not reflect upon and learn from such information will not prosper in a market economy. In this way, the process of rivalrous competition is said to incentivise inter-subjective learning (Hayek, 1948a; Ikeda, 1997, Chapter 3; Lavoie, 1985, pp. 22-27; MacKenzie, 2008).

An important difference between the information utilised in political decision-making and that utilised by economic actors is said to be that the former is limited to what can be verbally communicated and intellectually comprehended, whereas market prices are said to communicate information that may not be communicable verbally and may be beyond the comprehension of any one mind or group of minds working together. The information communicated by market prices reflects the billions of purchasing decisions made by consumers and producers dispersed throughout an advanced economy and may very often reflect tacit information that can only be revealed and hence communicated in the act of choosing. The ability of markets to utilise more information than political processes is said to be an important reason for the superior efficiency of market economies compared to planned economic systems (Hayek, 1948b; Ikeda, 1997, Chapter 3; Pennington 2003; Thomsen, 1992).

Subjectivist political economy also claims that political decision-making tends to be characterised by exclusive, all-or-nothing choices, whereas markets allow for greater diversity, pluralism and polycentric experimentation. In the words of Buchanan (1979, p. 56), 'politics differs categorically from markets in that, in political competition, there are mutually exclusive sets of winners and losers', meaning that, 'in economic exchange, decisions are made at the margin, in terms of more or less, whereas in politics, decisions are made among mutually exclusive alternatives, in terms of all-or-none prospects'.

It is argued that people may initially enter into politics to achieve gains from exchange not dissimilar those realised in private markets, such as the agreement of a common legal framework, but once the role of the state expands beyond the provision of genuine public

goods politics ceases to operate as a form of exchange for mutual advantage. Rather, the political process becomes the mechanism via which one group imposes their values and preferences on others. As Buchanan and Tullock (1962, p. 89) put it, democracy becomes the mechanism via which the majority exploit the minority: 'the essence of the collective-choice process under majority voting rules is the fact that the minority of voters are forced to accede to actions which they cannot prevent and for which they cannot claim compensation for damages resulting'.

For subjectivist political economy, where choices are presented as mutually exclusive alternatives, and in the absence of unanimous decision-making, majorities (and in some cases minorities) are able to impose their own preferences on others, so that learning about the values and preferences of others in order to forge an overlapping-consensus would seem to be contra-indicated. Rather, criticising and undermining other people's views would seem a more logical and effective strategy to secure the votes required to see one's own preferences adopted as public policies (Buchanan, 1954, 1975, Chapter 5; Buchanan and Tullock, 1962, Chapter 3).

The exclusive nature of political choices has also informed some accounts of the deliberative potential of democracy. Gutmann and Thompson (1996, pp. 15-16), for example, have argued that it is because public policies are binding upon all citizens that justifications for such policies that are acceptable to all should be sought via political deliberation. For subjectivist political economists, however, it is implausible to think that people would choose to engage in inter-subjective learning rather than pursue the non-cooperative strategy that offers the chance to win the political game outright and see one's preferences translated undiluted into public policy (Brennan and Buchanan, 1985, Chapter 4).

According to the subjectivist account, then, political power is monopolistic, whereas power in a market economy is polycentric. Political decision-making processes may allow one group to impose their values or preferences on others, whereas in private markets a range of different alternatives can simultaneously co-exist. Success in politics may depend upon persuading people of the correctness of one's own views and the fallacy of the views of others, whereas in a market economy individual success depends upon learning about and

responding to the values and preferences of others. Moreover, political deliberation is limited to that information that can be verbally communicated and consciously comprehended, whereas market prices enable economic actors to respond to knowledge that cannot be verbally communicated or intellectually comprehended.

The following section will test these two accounts of politics and markets via the empirical example of the problem of smoking in enclosed public places. It should be noted, however, that the two positions as set out above are ideal-types some distance removed from the 'politics' and 'markets' that exist in the real world: advocates of deliberative democracy would regard presently-existing democratic institutions as falling short of their democratic ideal; similarly, the markets that exist in contemporary capitalist societies are not free markets where outcomes are determined solely by market competition – government regulation and public policy exert a powerful influence on the outcomes generated within contemporary 'market' economies. Nevertheless, if empirical examples are to be used to explore theoretical positions than imperfect but presently existing cases must be employed. It is on this basis that the following case study aims to test the theoretical accounts presented above.

3. The response of economic actors to the problem of secondhand smoke

The fact that smoking is harmful to health was established more than sixty years ago (Doll and Hill, 1950) and that this harm extends to the inhalation of secondhand smoke (or environmental tobacco smoke) was established some thirty years later (Hirayama, 1981; Trichopoulos *et al*, 1981). Following the discovery of the harms caused by secondhand smoke, and campaigns by public health groups to disseminate that information, smoking in enclosed public places has ceased to be socially acceptable and has become constructed as a social problem (Berridge, 1999, 2007). In the language of economics, secondhand smoke is a negative externality: the harm to health that follows from the inhalation of secondhand smoke, as well as the more prosaic nuisance and irritation, constitute an external cost that smokers impose on people who share their airspace.

The removal of a negative externality is only optimal when the marginal social cost of removal is lower than the marginal social benefit of the activity that produces the externality. The ideal solution is for externalities to be internalised – that is, for the costs to be met by their creator while the social benefits remain. Subjectivist political economists would emphasise the fact that different people will view those costs and benefits differently: there is no single, objective cost or benefit of any action – only the cost or benefit as subjectively perceived by individual men and women (Buchanan, 1969; Vaughn 1980). In the case of smoking in enclosed public places, for example, the costs of secondhand smoke may depend upon *inter alia* whether people are already smokers, their aversion to risk and the value they place on their health.

Appreciation of the subjective nature of such costs and benefits logically leads to a Coasian approach to the problem of externalities. Coase (1960) famously predicted that private markets will internalise negative externalities when transaction costs are not prohibitive and property rights are clearly assigned. Coase's Theorem classically involves a process of negotiation between the harmer and harmed until a level of compensation is agreed that is mutually advantageous to both parties. As long as the relevant parties are satisfied that the compensation paid is greater than the costs and less than the benefits of the relevant activity, then the externality can be said to have been internalised. Internalisation of the externality does not necessarily require direct financial compensation from harmer to harmed, however, but could involve the harmer agreeing to remove, limit or in some way ameliorate the externality, so that the preferences of both parties are reconciled.

Littlechild (1986), Lee (1991) and Tollison and Wagner (1992) all hypothesised that the Coase Theorem could be applied to the problem of secondhand smoke in enclosed public places. It is argued that the ease with which smokers and non-smokers can be separated in public places suggests that where competitive pressures exist, commercial enterprises will cater to the demands of both smokers and non-smokers. Hence, in bars and restaurants where public authorities do not regulate or restrict smoking:

[O]wners determine what smoking policies are consistent with maximum profits by taking into account the competing demands of smoking and non-smoking

customers. More air space will be smoke-free as non-smokers out-bid smokers, and *vice versa*. Whether owners cater solely to smokers, to non-smokers, or accommodate both, depends on customer preferences and the marginal costs of accommodation (Dunham and Marlow, 2003, pp. 1936-1937)

It is predicted, then, that self-interested bar and restaurant owners will be incentivised by commercial pressures to cater to the needs of as wide a range of customers as possible; the problematisation of secondhand smoke should lead economic actors to supply smokefree hospitality and cater to the demands of smoking customers.

This approach to the problem has been criticised by Alamar and Glantz (2007), who have claimed that it is not possible for private arrangements to internalise the negative externalities created by second-hand smoke because, 'There is no mechanism by which a restaurant owner can compensate a patron for any health costs related to second-hand smoke', so, 'it is not possible for the owner to have completely internalized the costs of the externality imposed by the smoker' (Alamar and Glantz, 2007, p. 292).

This objection, however, misunderstands the subjective nature of the costs involved. As noted above, the cost of the externality imposed by secondhand smoke is not a single given cost that can be objectively determined, but a cost that represents the subjective harm imposed, in terms of nuisance, irritation and (surely most important) long-term risk of ill-health. This cost can only be discovered by a heuristic process of negotiation between harmer and harmed, in the same way that the price of a good or service can only be determined heuristically via negotiation between producers and consumers in the marketplace.

As also noted above, it is possible to internalise externalities without pecuniary compensation. Hence, the transaction costs of direct compensation payments are likely to be prohibitive in this instance, so it is more likely that the externality will be internalised via an accommodation between harmer (smoker) and harmed (non-smoker), for example through the provision of separate smoking and non-smoking areas or adequate ventilation inside bars and restaurants. If non-smokers do not believe that such accommodations

adequately address the costs imposed by secondhand smoke then they may choose not to patronise the bar or restaurant, thus imposing costs (loss of income) on the business owner.

A number of empirical studies support the view that an accommodation along the lines envisaged by Coase existed in bars and restaurants prior to the introduction of smoking bans. Boyes and Marlow's (1996) study of provision for smokers and non-smokers in restaurants and bars in the Californian town of San Luis Obispo before it became the first town in the world to introduce a smoking ban found that the majority of bars and restaurants made provision for smokers and non-smokers, usually by setting aside separate smoking and non-smoking areas. This research also found that the majority of non-smoking patrons were satisfied with the pre-ban arrangements.

Empirical research by Dunham and Marlow (2000a, 2000b) similarly found that private markets supplied a plurality of arrangements to respond to the diverse preferences of smoking and non-smoking bar and restaurant customers. A national US survey of 1,300 bar and restaurant owners found that restaurants allocated 54 per cent of seating to non-smoking areas, while in bars 5 per cent of seating was so allocated. Significantly, it was found that the percentage of seating allocated to non-smoking areas was negatively correlated to the proportion of smokers in the local population, indicating that restaurant and bar owners were responding to commercial pressures in the allocation of smoking and non-smoking areas (Dunham and Marlow, 2000a).

Indeed, Dunham and Marlow (2000b) found that the 39% of restaurant owners and 83% of bar owners believed (rightly or wrongly) that legislation to ban smoking in their premises would lower their revenue, demonstrating the importance of self-interest and commercial pressures to their decision to accommodate the interests of smokers and non-smokers.

Similar evidence of a diversity of owner responses to commercial pressures from smoking and non-smoking clients was found by an empirical study of close to one thousand restaurants and bars in the US state of Wisconsin, which at the time of the study had few restrictions on smoking in public places (Dunham and Marlow, 2004). The study found that 18 per cent of restaurants and almost no bars in the state were completely smoke-free,

while 45 per cent of restaurants and two per cent of bars did not allow smoking in the majority of their premises. The proportion of seats allocated to smoking and non-smoking customers was linked to a wide range of factors, including the number of smokers in the local community, the type of restaurant, presence of children and geographical location. The authors concluded that the diversity of smoking arrangements produced in the private market reflected the pluralism of consumer preferences and the diverse business challenges that faced different restaurants and bars in Wisconsin (Dunham and Marlow, 2004).

It should be noted that none of the above studies explicitly discuss the question of hospitality sector employees – as will be discussed in the following section, one argument for smoking bans is that bar and restaurant employees do not have the same choice as to whether or not to visit a particular establishment and inhale secondhand smoke as customers. Of course, it may be presumed that the Coase Theorem logically also applies to the employees of bars and restaurants: in the absence of monopsony employment, bar and restaurant workers freely negotiate their terms of employment and logically only enter into a contract where the benefits of employment exceed the costs, including exposure to secondhand smoke. However, the empirical evidence that might prove or disprove such a presumption does not exist as no such studies have been undertaken.

There is, then, empirical evidence to support the view that economic actors successfully internalised the problem of secondhand smoke in enclosed public places. Property rights within bars and restaurants were clearly assigned to the owners¹ and transaction costs were low because owners had a strong incentive to ‘negotiate’ on behalf of smokers and non-smokers to achieve a commercially optimal accommodation of different preferences.

The power of exit in a competitive market meant that self-interested bar and restaurant owners had a strong incentive to cater to the preferences of as many people as possible. These factors resulted in the creation of niche markets that catered only for non-smokers, relatively larger markets catering for smokers and non-smokers who were more agnostic about the costs of second-hand smoke, and the largest market that catered separately but within the same establishment for smokers and non-smokers.

Analysis of the response of economic actors to the problem of secondhand smoke in enclosed public places supports the view that participation in the economic realm incentivises inter-subjective learning. Of course, smokers and non-smokers did not deliberately set out their preferences to bar and restaurant owners who consciously reflected on them and then adopted smoking policies accordingly. Rather, it was the price signals generated in the marketplace that communicated the subjective preferences of smoking and non-smoking consumers – information that could not have been verbally communicated or consciously comprehended.

4. Political actors and the problem of secondhand smoke: the case of the English smoking ban

The evidence presented in the previous section showed how bar and restaurant owners responded to the problem of secondhand smoke, usually via the provision of separate smoking and non-smoking areas to meet the demands of smoking and non-smoking customers. Despite the evidence that such accommodations successfully internalised the externality created by secondhand smoke, legislation has been introduced throughout the developed world to ban smoking in enclosed public places: in the past decade almost every European country, most US states and Canadian provinces, Australia, New Zealand, Hong Kong and Japan, have all prohibited smoking in enclosed public places.

These smoking bans would certainly seem to be examples of the kind of top-down, exclusive solutions to social problems that subjectivist political economy would envisage being produced by political processes. In order to more fully understand the political decision-making processes that led to the introduction of such policies this section will now analyse the legislative process that led to the smoking ban passed by the UK Parliament on 14 February 2006 that came into force in England on 1 July 2007.²

The UK Parliament that introduced the English smoking ban was elected at the 2005 General Election when the Labour Party won a House of Commons majority of 66 MPs. The Labour Party election manifesto contained a commitment to ban smoking in restaurants and bars that served food, with an exemption for private members' clubs. Hence, according to this

proposal, smoking would continue to be permitted in bars that did not serve food. This manifesto commitment was the spur to an inquiry into smoking in enclosed public places by the House of Commons Health Select Committee at the start of the new Parliament.

The Health Select Committee was made up of 11 MPs drawn from all the main UK political parties. Its inquiry had many of the characteristics of a deliberative process: written evidence was invited from members of the public, public health groups, government bodies, environmental health professionals, tobacco manufacturers and representatives of the hospitality industry; a small number of representatives of the public health profession, and the tobacco and hospitality industries, were also invited to give oral evidence to the Committee. This evidence informed a unanimous all-party report that recommended a complete ban on smoking in all enclosed public places, including bars, restaurants and private members' clubs (House of Commons Health Select Committee, 2005a). Cairney (2009, p. 478) has identified this report as being crucial in persuading the government to abandon its manifesto commitment to a partial ban and allow a free vote on the legislation in the House of Commons on 14 February 2006. This debate was therefore a rare occasion when the outcome of a Parliamentary vote that was not determined by party political affiliation. The legislation was passed by a large majority of 453 to 125 votes, although it is worth noting that the debate was even more one-sided than the voting statistics might suggest as only a handful of MPs spoke against the proposed legislation.

The Select Committee inquiry and the House of Commons debate would appear to be important deliberative moments in the legislative process that led to the English smoking ban. The existence of such forums would seem to support the contention that political decision-making offers opportunities for reflective deliberation and inter-subjective learning. However, a more thorough analysis of what actually happened in each instance casts doubt upon such an interpretation.

The Select Committee inquiry received 56 written submissions and heard three days of oral evidence. However, analysis of the official transcript of the Select Committee proceedings and the final report suggest that this was not a deliberative process in which people sought to listen to and learn from different views. Rather, it would appear that the members of the

Select Committee had a pre-determined view that the issue of smoking in enclosed public places was one of irreconcilable conflicting interests: on one side were the interests of smokers whose only concern was their 'right' to smoke and the hospitality and tobacco industries who sought to maximise their profits; on the other side were the interests of the innocent victims of passive smoking.

The transcript of the oral evidence shows that the proceedings were more akin to judicial cross-examination than a deliberative process. Indeed, those who presented oral evidence were formally described as 'witnesses' to be 'examined' (House of Commons Health Select Committee, 2005c). Those who attended the Committee to argue against an outright ban on smoking in enclosed public places were met with hostile questioning in which their motives were challenged, while a number of those who presented views more sympathetic to a ban were asked why they had not done more to see a ban introduced (For example: House of Commons Health Select Committee, 2005c, Ev 5-7, Ev 17-23).

The questioning of the witnesses appeared to reflect the members' view that there was a moral correct side of the argument; those who were on the wrong side of the argument should be exposed, while those whose views were ambiguous should be required to make a choice between the two sides. For example, a senior civil servant in the Department of Health was asked: 'Is it therefore your opinion, or the opinion of your legal advisors, that the human rights of a smoker outweigh the human rights of a non-smoker? Yes or no'. When this question met with an equivocal reply, it was repeated in similarly stark terms: 'Who has the greatest human right, the smoker or the non-smoker, because it cannot be both?' (House of Commons Health Select Committee, 2005c, Ev 6).

The Select Committee report (2005a, p. 20) similarly stated that the task facing legislators was: 'balancing the economic effects on businesses and smokers' rights against workers' [exposed to secondhand smoke] rights'. The report (2005a, p. 6) summarised the 'ways of dealing with such effects [of secondhand smoke]' as simply 'ventilation or ban'. Even though the written evidence submitted by one tobacco industry representative had argued that it was possible to '[allow] choice for both smokers and non-smokers' (House of Commons Health Select Committee, 2005b, Ev 14), and a similar perspective had been presented by

tobacco industry representatives in their oral evidence (House of Commons Health Select Committee, 2005c, Ev 18), this possibility was entirely absent from the report.

A similar adversarial approach to the problem was expressed by contributors to the House of Commons debate. Speaking in the debate, the Chair of the Select Committee gave the following characterisation of the issue:

The tobacco industry and its allies often argue that smoke-free laws are an infringement of liberty, but I suggest that, once it is accepted that breathing in other people's smoke is dangerous to health, we will recognise that we are really dealing with a conflict of interest (Hansard, Column 1321).

Likewise, the Conservative opposition health spokesperson ended his contribution by drawing attention to the conflict between the interests of smokers and non-smokers:

[T]he principles involved are pretty straightforward. We must reduce smoking and the exposure to second-hand smoke. We should not permit people's liberty to choose whether to smoke to extend to a licence to cause harm to others (Column 1305).

An important dimension of this 'conflictual' approach was the belief that bar and restaurant employees had no plausible alternative but to undertake such work. The Select Committee report (2005a, p. 3) stated that 'The primary justification for a ban on smoking in public places and workplaces is that it protects workers and other vulnerable groups from the significant health risks which SHS [secondhand smoke] poses'. The report dismissed the notion that bar workers could choose to work in an environment without exposure to secondhand smoke:

There is little alternative to bar work for some people, such as students and single parents, who need the flexible arrangements and local availability the job offers... the argument that workers can choose where to work and therefore can decide whether to take on health risks goes against the grain of most legislation to protect

workers. The same point could have been made about child chimney sweeps (House of Commons Health Select Committee, 2005a, pp. 19-20).

Throughout the House of Commons debate, then, MPs argued in favour of the proposed legislation on the grounds that it provided 'protection' from the harmful effects of secondhand smoke for hospitality industry workers, as well as members of the public (Columns 1295, 1301, 1304, 1312, 1313, 1315, 1317, 1321, 1327, 1330, 1333).

The Select Committee inquiry and the House of Commons debate had many of the surface characteristics of a deliberative process. In particular, there was an attempt to provide justificatory reasons for the introduction of the smoking ban in terms of developing a robust argument in favour of the policy. A deeper analysis of what actually took place, however, reveals very little evidence of genuine deliberation. The political actors who participated in both interpreted the problem of smoking in enclosed public places in conflictual terms and this reflected the adversarial approach that was then taken. The notion that the different actors might have something to learn from one another, or might benefit from reflective deliberation, was entirely absent from both contexts.

It should also be noted that whereas economic processes had clear feedback mechanisms in terms of profits and losses, the political process did not provide similarly direct feedback: the politicians who introduced the ban on smoking enclosed public places would not face re-election for a number of years and any future election would be determined by a wide range of issues – the question of smoking in enclosed public places was unlikely to figure prominently, let alone prove decisive, at the next General Election.

Perhaps it should not be surprising, then, that from this process emerged an exclusive, all-or-nothing solution that saw the interests of one group – non-smokers entirely intolerant of secondhand smoke – imposed on all.

5. Politics, policy and information

The case of secondhand smoke in enclosed public places provides an example of the different solutions to social problems produced by economic and political processes: economic processes produced a pluralistic outcome, allowing for a variety of accommodations depending upon local circumstances and choices; political processes produced a uniform smoking ban that did not allow local variance or choice.

At the heart of these two different solutions were very different communicative processes. The political process utilised only information that could be verbally articulated or intellectually comprehended – values and preferences that could not be verbally articulated or consciously comprehended were excluded from this process. By contrast, the economic process was driven by people responding to non-verbal information in the form of price signals generated by the market. Subjectivist political economists would suggest that these price signals contained a huge amount of extremely complex information about people's relative preferences for smoking and non-smoking bars and restaurants, and the costs they were prepared to incur, and the trade-offs they were willing to make, in order to enjoy the benefits of different smoking and non-smoking arrangements. In an economic context prices provided a clear feedback mechanism about the success or failure of different arrangements that was absent from the political process.

It would appear, then, that the empirical evidence is consistent with the predictions of subjectivist political economy. An important objection to this conclusion, however, is that the failure of one particular political process to facilitate inter-subjective learning does not necessarily mean that all political processes will similarly fail. Indeed, advocates of more deliberative models of democracy often recognise the failure of contemporary democratic institutions and practices to deliver genuine reflective deliberation. The solution to this failure of democracy is then said to be the introduction of 'thicker' or 'deeper' democratic institutions that place greater emphasis on deliberation and seek to remove barriers to wider political participation so that more people can contribute to the deliberative process. The pathologies of democracy, then, are said to be remedied by 'more' democracy in both quantitative and qualitative terms (Barber, 1984, Chapter 5; Dryzek, 2000, Chapter 1).

From the perspective of subjectivist political economy, however, these arguments miss the central point that no conscious communicative process can access the information that is generated and used within private markets. Because this information is beyond verbal articulation or conscious comprehension it must always be absent from political decision-making. The subjectivist critique of political deliberation, then, concerns intrinsic features of the process itself. Indeed, if deliberation cannot work in a committee of eleven people, or a legislature of 646 people, it is not clear why 'thicker' or 'deeper' deliberation, which would seem to imply more people engaging in a longer deliberative process, should fare any better (Pennington, 2003).

A second, linked objection to the contention that the evidence above supports the conclusions of subjectivist political economy may be that political decision-making within largely autonomous local authorities can replicate the processes of feedback-driven inter-subjective learning seen within private markets. Tiebout (1956) and Vihanto (1992) have argued that genuinely autonomous local authorities providing relatively discreet packages of goods and services could produce a competitive process similar to that in private markets: people would reveal their preferences by moving from one local authority jurisdiction to another and this geographic mobility would incentivise local authorities to respond to these revealed preferences in order to attract residents-taxpayers.

The claim that political decision-making by autonomous local authorities driven by residents-taxpayers exercising a right of exit provides greater opportunities for pluralism, polycentric experimentation and the use of dispersed information compared to political decision-making by a unitary, centralised state would seem to be well-founded. Certainly, from the perspective of subjectivist political economy, the supply of goods and services by autonomous local government must be deemed preferable to the supply of goods and service by unitary central government (Pennington, 2003, pp. 735-736; Vihanto, 1992).

However, it is important to note that what is proposed here is to give political decision-making more of the characteristics of economic decision-making, in terms of rivalrous competition and the utilisation of subjective, dispersed and tacit knowledge, rather than to make political deliberation work on its own terms. Hence, this argument does not offer any

reason to believe that political decision-making should not be considered second-best to economic decision-making. Rather, what is argued here is that politics should adopt the institutional characteristics and practices of markets.

Furthermore, as Vihanto (1992) acknowledged, there are frequently strong centralising forces within the political process that mean that pluralism is often not tolerated in the political realm. In the case of the smoking ban, for example, the interpretation of the problem by political actors as one of conflicting interests logically led to the imposition of an outright ban; a pluralistic outcome that would have implied some concession to what were perceived to be malign and/or selfish interests was surely not acceptable to the relevant political actors. Hence, the dynamics of politics may lead to centralisation more than localisation.

Accordingly, from the perspective of subjectivist political economy economic mechanisms should be used as the principal means of solving social problems. This would imply, then, a redrawing of the balance between what are considered public problems of government concern and private problems of concern to individuals, families and firms. In the words of MacKenzie (2008, p. 687): 'the only legitimate role for conscious deliberation over activist public policy and social reform is a simple recognition that we should not deliberate over these matters at all'.

6. Conclusion

This article has utilised a case study of the responses of economic and political actors to the problem of secondhand smoke in enclosed public places to explore the different outcomes produced by economic and political processes. In this case, economic processes produced an accommodation of a wide range of interests in the form of varied provision for smokers and non-smokers, whereas political processes produced an outright ban that would seem to favour one particular set of preferences.

Although caution should be exercised before drawing general, definitive conclusions from a single case study, the empirical evidence here has far greater congruence with the

arguments of subjectivist political economy than the arguments of advocates of democratic deliberation; the evidence presented here supports the conclusion that markets are superior to political processes in enabling inter-subjective learning in order to produce solutions to social problems that reflect the values and preferences of the diverse members of a complex, advanced society.

If these conclusions are correct, then they would suggest that popular empowerment, understood in terms of the realisation of people's values and preferences, is more likely to be achieved via economic processes than via political processes.

Notes

¹ In this sense, the notion that these bars and restaurants were enclosed 'public' places is a misnomer. However, this terminology has been used throughout this article for consistency with almost all other contemporary accounts of the subject which use this (admittedly flawed) terminology. The introduction of smoking bans effectively assigned the relevant property rights to non-smokers.

² In accordance with the post-devolution constitutional settlement, the UK Parliament voted to ban smoking in England, following the enactment of similar legislation for Scotland by the Scottish Government and for Wales by the Welsh Assembly.

References

Alamar, B. C. and Glantz, S. A. (2007) Smoking in Restaurants: A Reply to David Henderson, *Econ Journal Watch*, 4, pp. 292-295.

Barber, B. (1984) *Strong Democracy* (Berkeley, CA.: University of California Press).

Berridge, V. (1999) Passive smoking and its pre-history in Britain: policy speaks to science? *Social Science and Medicine*, 49, pp. 1183–1195.

Berridge, V. (2007) *Marketing Health: Smoking and the Discourse of Public Health in Britain 1945-2000* (Oxford: Oxford University Press).

Boettke, P. J. and Lopez, E. J. (2002) Austrian Economics and Public Choice, *Review of Austrian Economics*, 15, 2/3, pp. 111-119.

Boettke, P. J., Coyne, C. and Leeson, P. T. (2007) Saving government failure theory from itself: recasting political economy from an Austrian perspective, *Constitutional Political Economy*, 18, pp. 127-143.

Boyes, W. J. and Marlow, M. L. (1996) The public demand for smoking bans, *Public Choice*, 88, pp. 57-67.

Brennan, G. and Buchanan, J. M. (1985 [2000]) *The Reason of Rules*, Indianapolis: Liberty Fund.

Buchanan, J. M. (1954) Individual Choice in Voting and the Market, *Journal of Political Economy*, 62, pp. 334-343.

Buchanan, J. M. (1969 [1999]) *Cost and Choice* (Indianapolis: Liberty Fund).

Buchanan, J. M. (1975 [2000]) *The Limits of Liberty* (Indianapolis: Liberty Fund).

Buchanan, J. M. (1979 [1999]) Politics without Romance: A Sketch of Positive Public Choice Theory and Its Normative Implications, in: *The Collected Works of James M. Buchanan, Volume 1: The Logical Foundations of Constitutional Liberty* (Indianapolis: Liberty Fund).

Buchanan, J. M. and Tullock, G. (1962 [2002]) *The Calculus of Consent* (Indianapolis: Liberty Fund).

Buchanan, J. M. and Vanberg, V. (2002) Constitutional Implications of Radical Subjectivism, *Review of Austrian Economics*, 15, 2/3, pp. 121-129.

Cairney, P. (2009) The role of ideas in policy transfer: the case of UK smoking bans since Devolution, *Journal of European Public Policy*, 16, 3, pp. 471-488.

Coase, R. A. (1960) The Problem of Social Cost, *Journal of Law and Economics*, 3, pp. 1-44.

Doll, R. and Hill, A. B. (1950) Smoking and carcinoma of the lung; preliminary report, *British Medical Journal*, 4682, pp. 739-740.

Dryzek, J. (2000) *Deliberative Democracy and Beyond* (Oxford: Oxford University Press).

Dunham, J. and Marlow, M. L. (2000a) The Effects of Smoking Laws on Seating Allocations of Restaurants, Bars and Taverns, *Economic Inquiry*, 38, pp. 151-157.

Dunham, J. and Marlow, M. L. (2000b) Smoking Laws and Their Differential Effects on Restaurants, Bars and Taverns, *Contemporary Economic Policy*, 18, 3, pp. 326-333.

Dunham, J. and Marlow, M. L. (2003) The economic incidence of smoking laws, *Applied Economics*, 35, pp. 1935-1942.

Dunham, J. and Marlow, M. L. (2004) The Private Market for Accommodation: Determinants of Smoking Policies in Restaurants and Bars, *Eastern Economic Journal*, 30, pp. 377-391.

Evans, A. (2009) Constitutional Moments in Eastern Europe and Subjectivist Political Economy, *Constitutional Political Economy*, 20, pp. 118-138.

Gutmann, A. and Thompson, D. (1996) *Democracy and Disagreement* (Cambridge, MA.: Harvard University Press).

Hayek, F. A. (1948a) Economics and Knowledge, in: *Individualism and Economic Order* (Chicago: University of Chicago Press).

Hayek, F. A. (1948b) The Use of Knowledge in Society, in: *Individualism and Economic Order* (Chicago: University of Chicago Press).

Hirayama, T. (1981) Non-smoking wives of heavy smokers have a higher risk of lung cancer: a study from Japan, *British Medical Journal*, 282, pp. 183-185.

Hansard (2006) *Proceedings of the House of Commons, 14 February 2006* (London: TSO).

House of Commons Health Select Committee (2005a) *Smoking in Public Places, Volume 1* (London: TSO).

House of Commons Health Select Committee (2005b) *Smoking in Public Places, Volume 2: Written Evidence* (London: TSO).

House of Commons Health Select Committee (2005c) *Smoking in Public Places, Volume 3: Oral and Written Evidence* (London: TSO).

Ikeda, S. (1997) *The Dynamics of the Mixed Economy* (London: Routledge).

Ikeda, S. (2003) How Compatible are Public Choice and Austrian Political Economy, *Review of Austrian Economics*, 16, 1, pp. 63-75.

Lavoie, D. (1985) *Rivalry and Central Planning* (Cambridge: Cambridge University Press).

Lee, D. R. (1991) Environmental Economics and the Social Cost of Smoking, *Contemporary Policy Issues*, 9, pp. 83-92.

Littlechild, S. C. (1986) Smoking and Market Failure, in: R. D. Tollison (Ed.) *Smoking and Society: Toward a More Balanced Assessment* (Lexington, MA.: D. C. Heath).

MacKenzie, D. W. (2008) The use of knowledge about society, *Journal of Economic Behavior and Organization*, 67, 678-688.

Pennington, M. (2003) Hayekian Political Economy and the Limits of Deliberative Democracy, *Political Studies*, 51, 4, pp. 722-739.

Rawls, J. (1996) *Political Liberalism, New Edition* (New York: Columbia University Press).

Rawls, J. (1999a) *A Theory of Justice, Revised Edition* (Oxford: Oxford University Press).

Rawls, J. (1999b) *The Law of Peoples* (Cambridge, MA.: Harvard University Press).

Thomsen, E. F. (1992) *Prices and Knowledge* (London: Routledge).

Tiebout, C. (1956) A Pure Theory of Local Expenditure, *Journal of Political Economy*, 64, 5, pp. 416-424.

Tollison, R. D. And Wagner, R. W. (1992) *The Economics of Smoking* (London: Kluwer).

Trichopoulos, D., Kalandidi, A., Sparros, L., and MacMahon, B. (1981) Lung cancer and passive smoking, *International Journal of Cancer*, 27, pp. 1–4.

Warren, M. (1992) Democratic Theory and Self-Transformation, *American Political Science Review*, 86, 1, pp. 8-23.

Vaughn, K. (1980) Does It Matter That Costs Are Subjective? *Southern Economic Journal*, 46, 3, pp. 702-715.

Vihanto, M. (1992) Competition Between Local Governments as a Discovery Procedure, *Journal of Institutional and Theoretical Economics*, 148, pp. 411-436.